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FISCAL IMPACT STATEMENT

LS 6519

BILL NUMBER: HB 1824

NOTE PREPARED: Apr 9, 2007

BILL AMENDED: Apr 9, 2007

SUBJECT: Energy Company Regulation.

FIRST AUTHOR: Rep. Pelath

FIRST SPONSOR: Sen. Gard

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: (Amended) This bill amends the definition of "clean coal technology" in various statutes. The bill defines the term as a technology used at an electric or a steam generating facility to reduce or avoid airborne emissions of: (1) carbon, sulfur, mercury, or nitrogen based pollutants; or (2) particulate matter; that are regulated, or reasonably anticipated by the Utility Regulatory Commission (IURC) to be regulated, by the federal government, the state, or a political subdivision of the state. (The current definition includes only technologies that reduce sulfur or nitrogen emissions.) This bill allows an existing electric or steam generating facility to petition the IURC for approval of a regulated air emissions project. The bill requires the IURC to: (1) approve the project if the IURC finds, after notice and hearing, the project to be reasonable and necessary; and (2) provide certain financial incentives for the project. The bill also requires the IURC to provide certain financial incentives to electricity suppliers for implementing electric line facilities projects. The bill provides financial incentives for an electric utility's implementation of conservation and load management programs. The bill also requires the IURC to: (1) create specified financial incentives for investments in conservation and load management programs; and (2) review applications by electric utilities for the incentives created. The bill requires an electric utility that receives incentives for a conservation and load management program to notify the IURC not later than 120 days before using, either directly or indirectly through an affiliate or an unaffiliated third party, any: (1) infrastructure; (2) equipment; or (3) other facilities; for which the incentives are received, to provide broadband over power lines (BPL) or other communications service. This bill provides that: (1) the incentives terminate at such time as the infrastructure, equipment, or other facilities are used to provide BPL or other communications service; and (2) the electric utility must refund to its Indiana electric customers all incentives received. The bill also requires an electricity supplier (other than a rural electric membership cooperative or a municipally owned utility) to supply a certain percentage of its total electricity supply from renewable energy resources each calendar year, as follows: (1) At least 1% not later than December 31, 2010.

(2) At least 2.5% not later than December 31, 2012. (3) At least 4% not later than December 31, 2016. The bill also allows an electricity supplier to own or purchase renewable energy credits to meet the required percentage. The bill establishes the renewable energy resources fund. This bill requires an electricity supplier that fails to supply electricity from renewable energy resources in the required percentage to pay a penalty. The bill deposits the penalties in the fund. The bill also requires the IURC, upon the request of the county executives of three or more counties that are located in an electric utility's service area, to study the feasibility of establishing a regional public power authority to: (1) acquire the assets of an electric utility providing retail electric service on April 1, 2007, in specified counties in Indiana; (2) own and operate the assets acquired; and (3) act as a nonprofit utility to provide retail electric service to customers within the participating units. This bill also requires the commission to report its findings not later than December 31, 2007, to: (1) the Regulatory Flexibility Committee; (2) the Legislative Council; and (3) the county executive of each county in the electric utility's service area on April 1, 2007. The bill authorizes the Regulatory Flexibility Committee to recommend any legislation necessary to establish a regional public power authority in Indiana.

Effective Date: Upon passage; July 1, 2007.

Explanation of State Expenditures: (Revised) This bill will cause an indeterminable increase in administrative costs of the IURC.

The bill requires the IURC to do the following:

- (1) Develop a mechanism for approving the regulated air emissions projects that qualify for the financial incentives provided in the bill. The bill will also require the IURC and Office of the Utility Consumer Counselor (OUCC) to develop an additional rate adjusting mechanism for qualifying utilities. These provisions are not expected to have a significant impact on the IURC or OUCC since similar procedures are already in place for clean coal and energy projects under IC 8-1-8.8-11.
- (2) Create incentives, as listed in the bill, for the implementation of conservation and load management programs.
- (3) Study the feasibility of establishing a regional public power authority. The bill requires this study to then be reported to: (1) the Regulatory Flexibility Committee; (2) the Legislative Council; and (3) the county executive of each county in the electric utility's service area on April 1, 2007.

State governmental entities would be subject to any increases in utility costs caused by the provisions in this bill. Depending on the cost recovery incentives implemented by the IURC, there could be an increase in utility rates.

Renewable Energy: The bill requires the IURC to monitor compliance with the standards in the bill for electricity suppliers' use of renewable energy resources. The bill also requires the IURC to publish compliance results on the IURC's website, adopt rules to implement the provisions of the bill, and submit a report to the Legislative Council, not later than April 1, 2013, concerning industry compliance.

The Economic Development Corporation (IEDC) is required to administer the Renewable Energy Resources Fund (RERF) established in the bill. The bill states that the IEDC can use the money in the fund to pay for the expenses in administering the fund. It is anticipated that the IURC can implement the provisions of this bill through the use of existing staff and resources.

Rate Adjustments: The bill also would require the IURC to develop and amend procedures to allow rate adjustments for costs associated with electric lines facilities projects. It is anticipated that the IURC can implement the provisions of this bill through the use of existing staff and resources.

By allowing rate adjustments for certain utilities and projects this bill will impact any state or local unit of government which purchases utility service from a facility allowed to adjust rates under this bill. The amount of the increase in costs is indeterminable, and could be offset by the possible increase in Utility Receipts Tax (URT) and Utility Services Use Tax collections (USUT) from the increase in receipts by utilities increasing rates.

Background on IURC Funding: The operating budgets of the IURC and OUCC are funded by regulated utilities operating in Indiana. The IURC determines the rate at which to bill the utilities based on the two agencies' budgets, less reversions, divided by the total amount of gross intra-state operating revenue received by the regulated utilities for the previous fiscal year. Based on this formula, utilities are currently billed approximately 0.15% of their gross intra-state operating revenues to fund the IURC and OUCC. In FY 2006, fees from the utilities and fines generated approximately \$11.8 M.

Explanation of State Revenues: (Revised) *Renewable Energy:* This bill creates the Renewable Energy Resources Fund for the purpose of supporting the development, construction, and utilization of renewable energy resources in Indiana. The bill requires that all penalties imposed on electricity suppliers for noncompliance with the renewable energy standards shall be deposited in the fund.

The bill requires that each electricity supplier supply electricity generated by renewable energy resources to Indiana customers as a percentage of the total electricity supplied by the electricity supplier to Indiana customers as follows:

- (1) By the end of 2010, at least 1.0%.
- (2) By the end of 2010, at least 2.5%.
- (3) By the end of 2010, at least 4.0%.

The measurement for these percentages is megawatt hours, but the bill provides for a system of renewable energy credits (REC's) that may be owned or purchased to satisfy up to 10% of the supply requirements listed above. The IURC estimates that less than 1% of all electricity supplied to Indiana customers is generated by renewable energy resources.

The bill further requires that a certain percentages of the renewable energy resources supplied must come from certain renewable energy sources as listed in IC 8-1-35-5(a) as added in the bill. The bill states that if an electricity supplier does not meet these standards, the supplier must pay a penalty equal to the number of megawatt hours that failed to comply multiplied by \$50. The IURC can waive these requirements for an electricity supplier if the IURC determines that the renewable energy resources were not available in sufficient quantities to allow compliance. If the IURC makes this determination at a public hearing as required by the bill, the IURC must reduce the suppliers' compliance standards accordingly.

As used in the bill, "electricity supplier" means a public utility that furnishes retail electric service to the public, but does not include municipally owned utilities or REMC's.

Rate Adjustments: By allowing rate adjustments for more facilities to recover costs this bill could increase URT and USUT collections. Any increase in collections will ultimately be determined by the increase in receipts for a utility that is permitted the IURC to adjust their rates for cost recover under the bill.

Explanation of Local Expenditures: (Revised) *Rate Adjustments:* By allowing rate adjustments for certain utilities and projects this bill will impact any state or local unit of government which purchases utility service from a facility allowed to adjust rates under this bill. The amount of the increase in costs is indeterminable, and could be offset by the possible increase in Utility Receipts Tax (URT) and Utility Services Use Tax collections (USUT) from the increase in receipts by utilities increasing rates.

Explanation of Local Revenues:

State Agencies Affected: All.

Local Agencies Affected: All.

Information Sources:

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